

The respondent requests review of whether the claimant's accidental injury arose out of and in the course of employment with the respondent. Respondent argues the claimant's injuries to her right hand while at her home were not a direct and natural or probable consequence of her work injuries and, instead, were the result of a separate and distinct intervening accident.

Claimant argues the ALJ's Order should be affirmed.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the whole evidentiary record filed herein, the Board makes the following findings of fact and conclusions of law:

The claimant testified that on August 29, 2005, she had finished ironing her son's shirt and had placed the iron on a shelf over her head. Her right hand was on the shelf when the iron fell from the stand, hit her right hand and then rolled over burning the top of her hand. The claimant sustained third degree burns to her right hand as well as fractures to two fingers.

Claimant testified she was not able to straighten her left arm out in order to place the iron on the shelf. She further testified that her arm caught and she had to bring her arm down at an angle. She testified:

Q. What is it - - how is it that you relate your arm or your shoulder problems and your hand injuries to your work-related injuries?

A. Trying to put it up above my head, because I can't - - I can't extend my arm all the way out, and I can't bring it down straight. I have to bring it down at an angle, and when I got it up there, it catches on me - - it caught on me, and I tried to bring it down because it started hurting.<sup>1</sup>

On cross-examination, the claimant testified that she kept the iron on an iron stand up on a shelf above her head and although she had placed the iron on the shelf she had not placed it up there quite right because of the "catch" in her arm and consequently it fell hitting her hand. She further testified:

Q. Okay. But the iron, it isn't like you were holding the iron, then it fell and hit your other hand; you set the iron up on the shelf and it just wasn't stable and it fell down and hit your hand, correct?

A. Right.

Q. So you were able to get the iron up there, but then it fell after that, correct?

A. Right.<sup>2</sup>

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<sup>1</sup> P.H. Trans. at 7.

<sup>2</sup> *Id.* at 12.

When claimant went to the emergency room seeking treatment for her hand it was noted that the claimant gave a history that an iron had fallen on her hand. The records further note that upon physical examination that mechanism of injury did not fit with the injury that was present.<sup>3</sup> In the Discharge Summary it was further explained in pertinent part:

This is a 53-year-old female who was admitted with a story that was initially questionable. She reported that she had dropped an iron on her hand and sustained a burn. On initial examination she had third-degree burns and two finger fractures on her right hand, which are inconsistent with dropping an iron due to the severity of the burns as well as the force needed to break her fingers. She was counseled with Social Services and denied and still admitted it to being an accident despite consultation.<sup>4</sup>

The hospital suspected spousal abuse but claimant denied that had occurred. And she had her son and husband at the preliminary hearing to corroborate her story but because respondent noted it was not defending based upon spousal abuse, they did not testify.

Every direct and natural consequence that flows from a compensable injury, including a new and distinct injury, is also compensable under the Workers Compensation Act. In *Jackson*<sup>5</sup>, the Court held:

When a primary injury under the Workmen's Compensation Act is shown to have arisen out of the course of employment every natural consequence that flows from the injury, including a new and distinct injury, is compensable if it is a direct and natural result of a primary injury. (Syllabus 1)

But the *Jackson* rule does not apply to new and separate accidental injuries. In *Stockman*, the Court attempted to clarify the rule:

The rule in *Jackson* is limited to the results of one accidental injury. The rule was not intended to apply to a new and separate accidental injury such as occurred in the instant case. The rule in *Jackson* would apply to a situation where a claimant's disability gradually increased from a primary accidental injury, but not when the increased disability resulted from a new and separate accident.<sup>6</sup>

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<sup>3</sup> *Id.*, Cl. Ex. 2.

<sup>4</sup> *Id.*, Cl. Ex. 2.

<sup>5</sup> *Jackson v. Stevens Well Service*, 208 Kan. 637, 493 P.2d 264 (1972).

<sup>6</sup> *Stockman v. Goodyear Tire & Rubber Co.*, 211 Kan. 260, 263, 505 P.2d 697 (1973).

The medical evidence that was proffered does not support claimant's version of how the injury to her hand occurred. In fact the medical evidence indicated that the physical findings upon exam were inconsistent with claimant's version of how the injury occurred. And if the injuries claimant suffered were inconsistent with her version of how the accident occurred it cannot be said that the injuries were a natural and probable consequence of her work-related injuries. This finding remains the same irrespective of the doctor's suspicions about the cause of her injuries.

Claimant has the burden of proof to establish that her medical condition is a direct and probable consequence of the original work-related injury. The record presented at the preliminary hearing is deficient in this regard. Because claimant has failed to meet her burden of proving that the treatment she is seeking is a natural consequence of the work-related injury, the request for medical treatment for her right hand must be denied.

Finally, the Board is compelled to comment on the medical exhibits introduced into evidence at the preliminary hearing. For future reference, counsel should exercise discretion in selecting documents that are offered into evidence. Ideally, only those documents that have some significance or particular relevance to an issue in controversy should be placed into the record. By exercising discretion, not only the judges and this Board, but also the appellate courts, will benefit as the record is not burdened with documents having absolutely no evidentiary value.

**WHEREFORE**, it is the finding of the Board that the Order of Administrative Law Judge John D. Clark dated November 17, 2005, is reversed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of January 2006.

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BOARD MEMBER

c: W. Walter Craig, Attorney for Claimant  
Tracy M. Vetter, Attorney for Respondent and its Insurance Carrier  
John D. Clark, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director